

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on January 24, 2003 at 9:03 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddie McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 193, 1/10/2003
Executive Action: SB 131

{Tape: 1; Side: A}

HEARING ON SB 193**Sponsor:** SENATOR JERRY O'NEIL, SD 42, COLUMBIA FALLS**Proponents:** None**Opponents:** Darrell Holzer, AFL-CIO; Representative Jonathan Windy Boy, Chippewa-Cree Tribe; Bruce Plummer, Tribal Member**Opening Statement by Sponsor:**

SEN. JERRY O'NEIL opened by saying that if he were to accuse any member of this committee of discrimination against Indians, they would throw him out of the room. If he were to accuse the committee of discrimination against the poor, they would think he was crazy, but it is the policymakers of this state that continue to have a minimum wage in areas of high unemployment. He stated we are discriminating against Indians and the poor and other minority races. He said we are forbidding people from hiring the poor due to the \$5.15 per hour minimum wage. **SEN. O'NEIL** stated those present at this hearing are considered to be affluent members of society, and the minimum wage has minimal effect on us. Like our labor laws, we know how to skirt around these requirements. He wanted to know how many members of the committee received the minimum wage or greater on their first job. He bet most everybody here worked for less than minimum wage on their first job because their parents weren't able to provide it. He then asked how many paid wages to their children on their first job and said the same thing applies. The affluent are not subject to minimum wages; we let our children work for less than minimum wage in order to give them work experience. He said one important characteristic which distinguishes the affluent families from families of poverty is that affluent families are able to provide jobs for the children which pay money. But it's very likely that the first jobs we had and the first job we gave our children did not pay minimum wages. He discussed his calling for a repeal of the minimum wage during testimony before the House Financial Services Committee last year and said Federal Reserve Chairman, Allan Greenspan, undoubtedly dismayed the members of Congress when he suggested that it should be abolished. That is what **SEN. O'NEIL** said he was suggesting for Montana. He asked if Greenspan understands that the minimum wage laws protect workers from being exploited by greedy, capitalist, selfish, profit-seeking employers. He stated if the minimum wage were abolished, wouldn't employers drive wages down to subsequent levels with millions of people being left on the streets. He wanted to know what it is with Greenspan and does he really hate the poor. Actually, **SEN. O'NEIL** shared, Greenspan understands that the minimum wage constitutes not only a

gregarious assault on the poor but also an attack on the freedom of everyone in society. In fact, the minimum wage law is an infringement on economic liberty and was the reason the U.S. Supreme Court initially declared it in violation of the U.S. Constitution. **SEN. O'NEIL** felt it ironic that low-productivity workers tend to belong to the minority groups that the law was designed to aid. Among other things, their lower ability to produce stems from differences in education, culture, motivational background, breakdown of the family unit, etc. Comparatively, the productivity of young people from affluent neighborhoods is higher than that of the average youth in areas of high employment. This is unfortunate but nonetheless true. Without the minimum wage, the downtrodden have the ability to accept the lower payment, increasing their chances of employment. With it, the effects are obvious. If the law requires that no less than \$5.15 per hour be paid for work, then the average productivity of work from an affluent family is \$5.15 per hour or greater, the average productivity of youth in an area of poverty is \$4.50 per hour, then it logically follows that the youth in the area of affluent neighborhoods, but not the youth in the area of poverty, will be hired. This result holds true regardless of employer prejudice. If anything, it is the law that is prejudiced when it penalizes the employer if he hires people from areas of poverty. Nationally, minimum wage earners account for only ten percent of all people employed and less than one-fifth of minimum wage earners are the sole providers for their families. This represents under two percent of all people employed. The government supposedly began to regulate the wages in order to protect workers from exploitation. The first wage order was explicitly intended to exploit the least skilled workers by evicting them from the labor market. The original minimum wage law was enacted in part to decrease the advantage low income southern factories had over northern factories, because the southern factories cannot produce them to have lower labor costs; therefore they can proceed against the northern factories with the higher base activity. It was also to stop blacks from moving into New York and competing with union workers. Reference to that, John Dans of Pennsylvania later explains, "We had to do something. We were losing all of our jobs to the south." The new wage law devastated Puerto Rico as economist, Benjamin Anderson noted. Then some unemployment resulted there through the sheer inability of important industries to pay the 25 cents per hour. The more effective minimum wage laws are in raising wages above market clearing levels, the more people will be evicted from the labor market. Congress raised the minimum wage in nominal terms by 46 percent between 1977 and 1981. A federal commission estimated minimum wage hikes resulted in the loss of 664K jobs, including jobs that were not created. The National Bureau of Economic Research estimated the minimum wage hikes in 1980 and 1981 threw between

three and four percent of minimum wage workers out of jobs. A 1983 General Accounting Office report reached a total agreement that employment is lower than it would have been if no minimum wage existed. Teenage workers have greater job losses relative to their share of the population of the unemployed workforce than do adults. The minimum wage has been described as a tax from the poor to the poor whereby some low wage earners increase their income while others lose all their income. The current minimum wage effectively prohibits people from working in lesser labor fields. To decree a minimum wage without granting everyone a job is simply to knock those in this bottom rung off the ladder. President Carter's Minimum Wage Study Commission noted that an explicit purpose of the minimum wage was and is to protect adult workers from low wage competition from you. One problem that arises is that the higher the minimum wage is set, the less the incentive working teenagers have to remain in school. When they receive wages that look lucrative to them, they would rather work than sit in class. Another problem if we price the poor out of the labor market, we are also denying them the opportunity to receive earned income credit or receive money back from the government to subsidize their wages. But the poor that can't get a job because of the minimum wage don't get that earned income credit. Therefore, we are discriminating against them. When given the State of the Indian Nation speech the other day, Chairman Van of the Crow Tribe stated he wanted equal economic opportunity for tribal members. The statistical record proves that the minimum wage law creates teenage unemployment, especially among minorities. For example, in 1948, when the effective minimum wage was much lower, white teenage unemployment was 10.2 percent while black unemployment was 9.4 percent. Today, with our higher minimum wage, white youth unemployment is 13.9 percent whereas black is 33.4 percent. The higher the minimum wage, the more discrimination against minorities. In some areas of Montana, over 60 percent of the residents are unemployed. I have been in poverty homes where my friends did not have any money nor jobs for their children. To develop a work ethic, children from areas of poverty need to find a job outside of their home, same as children from white, affluent families in affluent neighborhoods. Not allowing teenagers in areas of high unemployment to work for less than \$5.15 an hour amounts to a crime against the poor people in Montana. When I told my brother I was going to attempt to repeal the minimum wage in areas of high unemployment, he told me there would be some interest groups that would strongly oppose the effort. Instead, he suggested a more acceptable alternative like either allow a tax credit up to the amount of the minimum wage or some percentage thereof for businesses in the areas I am trying to help. Well, if you think such corporate welfare will solve the problems in Montana's areas of high unemployment, by all means, enact such legislation. But, in the meantime, let's quit

discriminating against the poor, who are presently unemployed and appear to be unemployable under our current rules. Please vote "yes" on this bill to end the official discrimination against the poor in counties with high unemployment in Montana. Written notes were provided by **SEN. O'NEIL, EXHIBIT (bus15a01)**.

Proponents' Testimony: None

Opponents' Testimony:

Darrell Holzer, AFL/CIO, offered their opposition to SB 193. They don't believe for a moment that those employment opportunities in high unemployment counties are not in anyway attributable if required under the Fair Employment Standard Act that an employer pay the minimum wage of \$5.15 per hour has anything to do with that high unemployment rate. He said those businesses are not prospering and, if you're not growing, you're not going to be hiring additional employees. **Mr. Holzer** shared comments he has heard about the lack of a strong work ethic in young people today. He stated work has to have value. There has to be a return on that work investment and there has to be, to some degree, some meaning. He discussed students working minimum wage jobs to pay for tuition so they can get the education necessary to move above minimum wage. This bill will serve to do absolutely nothing other than drive the lowest of the low even lower. The administration in Washington, D.C., is currently advocating rather strongly that folks on public assistance be required to work a minimum of 40 hours per week to pay for that assistance. Minimum wage is a starting point and no one could argue for a moment that \$5.15 per hour in the year 2003 is unreasonable. If anything, that in itself is a joke. He encouraged the committee to give a DO NOT PASS to SB 193.

REP. JONATHAN WINDY BOY, came before the committee as a tribal leader. A couple of days ago, during the governor's address, there were some figures that were brought out that the state unemployment for Montana is 4.6 percent. Coming from a reservation and the tribal leader, I come from a 70 percent unemployment rate. With the existing law, we have a 60-month period for the recipients to be on public assistance. To eliminate the minimum wage would be too hard on recipients. He said that, while they are their own government, the economics just aren't fair for the Chippewa-Cree people now. Their geographic location is very isolated and he felt that putting up another obstacle in front of the tribal nation would be too hard. He voiced his strong opposition to this legislation.

Bruce Plummer, tribal member, spoke as a concerned tribal member who lives on the reservation. He voiced his thoughts that there

is a fatal flaw in **SEN. O'NEIL's** logic. The assumption was that if the minimum wage gets lowered, there will be a mass influx of jobs on the reservation overnight and that the existing businesses that reside on the reservation will all of a sudden have openings for which his fellow Indians can apply and everyone will go to work and their unemployment will drop. The reality is that there are no jobs on the reservation. If there were jobs, they wouldn't have a 60 to 80 percent unemployment rate. **Mr. Plummer** discussed the targeting of counties with high unemployment and asked why a test couldn't be done in a major metropolitan area. He stated his personal hope was that the committee would defeat this bill.

{Tape: 1; Side: B}

Informational Testimony:

John Andrew, Department of Labor and Industry, offered assistance on any questions from the committee.

Questions from Committee Members and Responses:

SEN. CAROLYN SQUIRES asked **SEN. O'NEIL** the types of businesses he was considering for minimum wage and what did he feel makes minimum wage in a community. **SEN. O'NEIL** replied that the beauty of it was that he doesn't have to figure the businesses. His bill would allow some of the 70 percent unemployed people to get together and start up a business such as gathering pine cones or finding a clay deposit and dig up some clay to make some pottery. He suggested making candle holders with a wood lathe or provide a taxi service between someplace and someplace. The beauty of the free market system is that he doesn't have to figure out a way for someone else to make a living. All that has to be done is give those people a level playing field to make a living.

SEN. SQUIRES questioned **Mr. Andrew** about another minimum wage offered in this state. **Mr. Andrew** answered that Montana's minimum wage law has a provision for retail establishments whose gross volume of sales are less than \$110K per year. Those enterprises may pay a minimum wage of \$4 per hour. **SEN. SQUIRES** emphasized that we have two standards, so it appears that some of what **SEN. O'NEIL** was talking about doesn't apply. **SEN. O'NEIL** stated he wants all minimum wages out in high unemployment county.

SEN. DON RYAN addressed **SEN. O'NEIL** for clarification on his statements regarding having a minimum wage keeps youths from working because it forces them to be in competition with adults for jobs. **SEN. O'NEIL** confirmed the statement. **SEN. RYAN** then

asked if raising the minimum wage would then prohibit more youths from working and, therefore, keep them in school. **SEN. O'NEIL** replied that it could very well do that. If that is the case, how much does the minimum wage need to be raised in order to keep the kids on the Indian reservation in school.

SEN. KEN HANSEN asked **SEN. O'NEIL** about his statistics on blacks and whites and if he had any on Native Americans. He did not.

SEN. HANSEN wanted to know why he did not have any of those percentages. **SEN. O'NEIL** said it was because he was lazy.

SEN. ROUSH's questioned the living standards for people if they made below \$5.15 per hour and voiced his concern that they would rather stay on welfare than make lower than the present minimum wage. **SEN. O'NEIL** gave a hypothetical situation of a single mother with a child that is 16 years old. He said the child could not get a job, so what good is the minimum wage. He is not helping his mother and she can't even get an earned income credit because he is not working. **SEN. O'NEIL** proposed raising the minimum wage to \$20 if we feel we must to help these people.

SEN. VICKI COCCHIARELLA pointed out a fatal flaw in **SEN. O'NEIL'S** proposal because this bill would advocate abuse of children and overrides child labor laws. It puts them in a position where they can be abused by any employer who will take advantage of paying a wage so low that they will open up a sweat shop and bring in these very desperate and poor people to make their products. **SEN. O'NEIL** said this bill does not change labor laws nor does it allow children to work at an age younger than the law now allows.

CHAIRMAN DALE MAHLUM commented on supply and demand and the fact that sometimes older people have to be hired in retail because the younger people don't want to work for \$5.15 per hour.

{Tape: 2; Side: A}

Closing by Sponsor:

SEN. O'NEILL commented on the fact that his children turned out good due, in part, to the fact that he paid them less than the minimum wage and they were permitted to have an incentive to work hard. He also said that if the committee wanted to amend it to apply to every county in Montana, it would be lovely and wonderful. His hope is that, with this bill, a couple of people could get together and hire someone to work for them and the business can grow.

EXECUTIVE ACTION ON SB 131

SEN. COCCHIARELLA moved **DO PASS AS AMENDED** on SB 131,
EXHIBIT(bus15a02). The vote was unanimous in favor.

ADJOURNMENT

Adjournment: 10:17 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus15aad)